



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/997,260	11/30/2001	Randall H. Jamail	10659-009	3727
140	7590	05/21/2008		
LADAS & PARRY LLP 26 WEST 61ST STREET NEW YORK, NY 10023			EXAMINER NEYZARI, ALI	
			ART UNIT 2627	PAPER NUMBER
			MAIL DATE 05/21/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
P.O. BOX 1450  
ALEXANDRIA, VA 22313-1450  
www.uspto.gov

Steven I. Wallach  
Ladas & Parry LLP  
26 West 61st Street  
New York, NY 10023

MAILED

MAY 20 2008

In re Application of  
Randall H. Jamail  
Application No. 09/997,260  
Filed: November 30, 2001  
Atty. Docket No.: U 015453-4

: DECISION,  
: *SUA SPONTE*,  
: REGARDING  
: SHOWING  
: OF CAUSE

CENTRAL REEXAMINATION UNIT

This is a decision, *sua sponte*, regarding the ORDER TO SHOW CAUSE ("show cause order") mailed by the Office on April 15, 2008.

Application number 09/997,260 for reissue of U.S. Patent No. 5,995,457 is before the Office of Patent Legal Administration (OPLA) for consideration following the expiration of the time for filing a response to the April 15, 2008 show cause order.

Summary: Applicant has, in the three related reissue applications, shown that U.S. Patent No. 5,995,457 has been revived and is currently in force. Therefore, the Office has determined, *sua sponte* that there is cause why the Office should not terminate the present reissue application and should continue the prosecution of the present reissue application.

BACKGROUND

1. U.S. patent 5,995,457 ("the '457 patent") issued on November 30, 1999.
2. Application number 09/997,260 ("the '260 application") was filed on November 30, 2001, for reissue of the '457 patent.
3. The '260 application for reissue of the '457 patent is pending; the Image File Wrapper record reveals that a responsive amendment was filed on March 31, 2003, that a supplemental response February 6, 2006, and prosecution of the application has not been closed by the mailing of an Office action.
4. The Office's financial records revealed that the 7.5 year maintenance fee due by November 30, 2007, (the end of the maintenance fee grace period), was not paid on or before November 30, 2007 (a Monday). As a result, the '457 patent expired at midnight on November 30, 2007, for failure to pay the 7.5 year maintenance fee due.\*
5. The Office published a Notice that the '457 patent expired for failure to pay the 7.5 year maintenance fee. See 1326 O.G. Number 4 (January 22, 2008).

\* See MPEP § 2506, third paragraph.

6. An Order to Show Cause why prosecution of the '260 application should not be terminated and then held to be abandoned was mailed by the Office on April 15, 2008.
7. A petition to accept late payment of the 7.5 year maintenance fee for the '457 patent was both filed and granted on May 15, 2008.

### DECISION

Although applicant has not filed a response to the April 15, 2008 show cause order, the Office recognizes, *sua sponte*, that on May 15, 2008, applicant has filed a response to the April 15, 2008 show cause order have been filed in each of application number 10/400,793, application number 10/400,794 and application number 10/400,796. Those applications, like the '260 application, are each an application for reissue of the '457 patent. The response papers filed by applicant each show that a petition under 37 CFR 1.378(b) to accept late payment of the 7.5 year maintenance fee for the '457 patent was granted by the Office and that the 7.5 year maintenance fee for the '457 patent was paid on May 15, 2008. Further, a review of the Office's records reveals that maintenance fee payment of \$2,360.00 and the \$1,640.00 surcharge for late payment of the maintenance fee after expiration of the payment window have been "accounted" to the '457 patent. Thus, the '457 patent has not expired for failure to pay the 7.5 year maintenance fee. In addition, the present reissue proceeding is properly before the Office for consideration, as it has now been shown that the original patent has not expired. Accordingly, the Office will *sua sponte*, resume consideration of the '260 application. The '260 application will accordingly be forwarded to the examiner for further examination.

### CONCLUSION

1. The Office has determined, *sua sponte*, that there is sufficient cause that for the Office to not terminate the instant reissue proceeding.
2. Consideration of the '260 reissue application will be resumed.
3. Jurisdiction over the '260 reissue application file is being returned to Technology Center Art Unit 2655 for further examination, as appropriate, in due course.
4. Any further communications as to the merits of the '260reissue application should be directed to examiner Ali Neyzari, in Technology Center Art Unit 2655, who can be reached at 571-272-7622.
5. Telephone inquiries related to this decision should be directed to Stephen Marcus, Senior Legal Advisor, at (571) 272-7743.



Kenneth M. Schor  
Senior Legal Advisor  
Office of Patent Legal Administration